

### **REMARKS**

Claims 1, 3-9, 13 and 14 were previously presented for examination. In the outstanding office action, claims 1, 3-9, 13 and 14 were rejected. By the foregoing Amendment, claim 5 has been cancelled. No claims have been added. Claims 1, 7 and 8 are amended. Thus, upon entry of this paper, claims 1, 3, 4, 6-9, 13 and 14 will be pending in this application. Of these 9 claims, one claim (claim 1) is independent. Based upon the above Amendments and following Remarks, Applicant respectfully requests that all outstanding rejections be reconsidered, and that they be withdrawn.

#### **Claim Rejections - 35 U.S.C. §101**

Applicant respectfully requests reconsideration and withdrawal of the rejections of claims 1, 3-9, 13 and 14 under 35 U.S.C. §101 as being directed to non-statutory subject matter due to the recitation of the human body. Independent claim 1 and dependent claims 7 and 8 have been amended so as to no longer positively recite parts of the human body. No new matter has been added.

#### **Claim Rejections - 35 U.S.C. §102(b) – Weissman ‘183**

Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 1 and 3, as presently amended, under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,348,183 to Weissman (hereafter “Weissman ‘183”).

In order for anticipation to exist, a reference must teach each and every element of a claimed invention. “The identical invention must be shown in as complete detail as is contained in the... claim”. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Weissman ‘183 is directed to a holding device for a dental prosthetic structure having an externally threaded post which can be inserted within a bore in a tooth stub. (See, Weissman ‘183, Abstract.) Retaining nut 22 “has an internally threaded central bore 24 for threading of the nut onto the post 12.” (See, Weissman ‘183, col. 2, ll. 59-60.) After the post is secured in the

tooth stub bore by dental cement, retaining nut 22 is threaded onto the post “far enough down on the post so that it proximately sits upon the upper surface 38 of the tooth stub 34.” (See, Weissman ‘183, col. 3, ll. 12-30.) Tabs 26 which extend out from retaining nut 22 “serve as restorative material retainers to securely hold the restorative material in the prosthetic structure when formed thereon.” (See, Weissman ‘183, col. 3, ll. 40-44.) If necessary, Weissman ‘183 describes an additional retaining screw 44 which can provide further retention of the retaining nut on the tooth stub. (See, Weissman ‘183, col. 3, ll. 57-63.)

Weissman ‘183 does not teach or suggest that its structure is “a smooth, non-threaded, alignment section at an apex of said fixture, said *alignment section configured to guide a transport segment of the jaw bone as the jaw bone is distracted* and thereby prevent inappropriate movement by the jaw bone, wherein said orthodontic fixture is connected to an *appliance configured to facilitate distracting the jaw bone*” as recited in Applicant’s claim 1, as presently amended (emphasis added). For at least this reason, claim 1 is not anticipated by Weissman ‘183. Claim 3 depends from claim 1 and is therefore not anticipated by Weissman ‘183.

Claim Rejections - 35 U.S.C. §102(e) – Weissman ‘473

Applicant further respectfully requests reconsideration and withdrawal of the rejection of claims 1 and 3-7, as presently amended, under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,685,473 to Weissman (hereafter “Weissman ‘473”).

Weissman ‘473 is directed to a chairside prosthesis which includes modular components including implant screws which are interconnected to provide a “splint” upon which tooth forms/synthetic teeth (e.g., bridges and dentures) may be supported. (See, Weissman ‘473, Abstract; col. 2, ll. 4-13.) The implanted screws may be used to support a single tooth prosthesis or combined in modular fashion to provide a foundation or splint for a denture prosthesis. (See, Weissman ‘473, col. 7, ll. 26-30.) When used as a splint to support a denture prosthesis, “the entire modular system is preferably encased in resin... in order to lock the system into position with the connecting bars 90, 92.” (See, Weissman ‘473, col. 8, ll. 50-54.)

Weissman '473 does not teach or suggest that its structure is "a smooth, non-threaded, alignment section at an apex of said fixture, said *alignment section configured to guide a transport segment of the jaw bone as the jaw bone is distracted* and thereby prevent inappropriate movement by the jaw bone, wherein said orthodontic fixture is connected to an *appliance configured to facilitate distracting the jaw bone*" as recited in Applicant's claim 1, as presently amended (emphasis added). For at least this reason, claim 1 is not anticipated by Weissman '473. Claims 3-7 depend from claim 1 and are therefore not anticipated by Weissman '473.

As noted above, claim 1 now recites an orthodontic fixture, wherein the orthodontic fixture is "connected to an *appliance configured to facilitate distracting at least a portion of the jaw bone* and further configured to be supported by teeth or adjacent static fixtures." (See, Applicant's amended claim 1, above; emphasis added.)

#### Claim Rejections - 35 U.S.C. §103

Dependent claims 8, 9, 13 and 14 were rejected under 35 U.S.C. §103(a) as being unpatentable over cited references. These dependent claims incorporate all of the subject matter of their respective independent claims and add additional subject matter, which makes them *a fortiori* independently patentable over the art of record. Accordingly, Applicants respectfully request that the outstanding rejections of the dependent claims be reconsidered and withdrawn.

#### ***Conclusion***

In view of the above amendment, applicant believes the pending application is in condition for allowance.

If a fee is due, please charge our Deposit Account No. 22-0185, under Order No. 21547-00298-US1 from which the undersigned is authorized to draw.

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Respectfully submitted,

Electronic signature: /Burton A. Amernick/  
Burton A. Amernick  
Registration No.: 24,852  
CONNOLLY BOVE LODGE & HUTZ LLP  
1875 Eye Street, NW  
Suite 1100  
Washington, DC 20006  
(202) 331-7111  
(202) 293-6229 (Fax)  
Attorney for Applicant